



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2023-0038

RIN 1625-AA09

Drawbridge Operation Regulation; Drawbridge Operation Regulation; Erie Canal, Part of the New York State Canal System, in Brockport, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the operating schedule that governs the E-182 Main Street Bridge, mile 278.93, over the Erie Canal, in Brockport, NY to allow contractors to rehabilitate the bridge. The roadway has been closed since last fall and vehicles are unable to cross the bridge until repairs are completed. New York Department of Transportation has made this request to temporarily modify the bridge operations to allow for the required maintenance. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

The Coast Guard anticipates that this proposed rule will go final and be effective from midnight on May 31, 2023, through midnight on October 25, 2024.

ADDRESSES: You may submit comments identified by docket number USCG-2023-0038 using Federal Decision-Making Portal at <https://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail: Mr. Lee D. Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216-902-6085, e-mail *Lee.D.Soule@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
OMB	Office of Management and Budget
NYDOT	New York Department of Transportation
NPRM	Notice of Proposed Rulemaking (Advance, Supplemental)
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

The Erie Canal is 362.9 miles long canal that runs east-west between the Hudson River and Lake Erie. Completed in 1825, the canal was the first navigable waterway connecting the Atlantic Ocean to the Great Lakes. The Erie Canal, to include all land and original structures within 500-feet of the shore, is a registered national historic landmark. The Erie Canal is controlled by 57 locks and 17 lift bridges and can accommodate vessels 300-feet long and over 43-feet wide. The Erie Canal is used primarily by recreational vessels, though it remains served by several commercial barge-towing companies and is open to small craft and some larger vessels from May through November each year. During winter, water is drained from parts of the canal for maintenance.

The Erie Canal does not have a section under 33 CFR part 117, subpart B, and all bridges are required to operate under the general responsibilities for bridge owners.

III. Discussion of Proposed Rule

The E-182 Main Street Bridge, mile 278.93, over the Erie Canal, provides a horizontal clearance of 116-feet and a vertical clearance of 3-feet in the closed position and 16-feet in the open position based on canal low pool elevation. There is no alternative route for vessels.

The proposed rule will allow snooper type vehicles and other man lift equipment operating above the water to perform required maintenance to the bridge. Spotters will watch for approaching vessels and move the equipment to allow vessels to safely pass the area.

During rehabilitation, the bridge will be locked in the fully open position and will only encroach on the waterway with under bridge type vehicles. This project will place negligible burdens on the vessel operators and impose minimal restrictions on traffic. Vehicular traffic can use one of two bridges in the near vicinity. The rehabilitation project is required to maintain the bridge in serviceable condition for all modes of transportation at this crossing.

The bridge has been closed to vehicle traffic since last fall due to the critical repairs that need to be made. Vehicle detours have been approved by the cognizant NYDOT office.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM

has not been reviewed by the Office of Management and Budget (OMB).

This proposed rule is considered to be not significant because there will be no restrictions placed on vessels passing under the bridge at any time and the published fully open to navigation clearances will be maintained at all times.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. If you believe this proposed rule has implications for federalism or Indian Tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rule. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2023-0038 in the search box and click "Search." Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using

<https://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

Viewing material in docket. To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the <https://www.regulations.gov> Frequently Asked Questions webpage. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted, or a final rule is published of any posting or updates to the docket.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; DHS Delegation No. 0170.1.

2. Revise § 117.783T to read as follows

§ 117.783T Erie Canal.

(a) The E-200 North Main Street Bridge, mile 293.15, over the Erie Canal, in

Brockport, NY will be rehabilitated with under bridge vehicles. The Bridge will remain in the open to navigation position for the duration of the project. Spotters will warn of approaching vessels and move the man lift to allow vessels to pass. Bridge lighting will be temporarily replaced with steady burning yellow lights on the bottom and four-corners of the bridge where they can best be seen by vessels approaching from upriver or down river of the bridge.

(b) The E-182 Main Street Bridge, mile 278.93, over the Erie Canal, in Brockport, NY will be rehabilitated with under bridge vehicles. The Bridge will remain in the open to navigation position for the duration of the project. Spotters will warn of approaching vessels and move the man lift to allow vessels to pass. Bridge lighting will be temporarily replaced with steady burning yellow lights on the bottom and four-corners of the bridge where they can best be seen by vessels approaching from upriver or down river of the bridge.

M. J. JOHNSTON
Rear Admiral, U.S. Coast Guard,
Commander, Ninth Coast Guard District
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